THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.16159 of 2002

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Dated: 28.02.2006

Between:

The Depot Manager, A.P.S.R.T.C., Warangal II Depot, Warangal District.

..... PETITIONER

AND

A. Buchaiah, S/o Veeramallu, Ex. Conductor, R/o Devunur Village, Dharmasagaram Mandal, Warangal District, C/o P. Surender Kumar, Advocate, Padmakshi Colony, Near Padmakshi Temple, Hanamkonda, Warangal and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.16159 of 2002

Order:

Assailing the award dated 05.02.2002 passed by the Labour Court, Warangal, in I.D. No. 3 of 2000, directing the petitioner-Corporation to reinstate respondent No.1 into service with continuity of service, full back wages and attendant benefits, however, after reinstatement one annual increment of respondent No.1 shall be stopped without cumulative effect, the petitioner-Corporation filed the present writ petition.

Heard the learned Standing Counsel for the petitioner-Corporation and learned counsel for respondent No.1.

Learned Standing Counsel for the petitioner-Corporation contends that though respondent No.1 in the spot explanation Ex.M4 recorded by the checking officials admitted his guilt and the charges leveled against respondent No.1 were proved by ample evidence, the Labour Court, without appreciating the evidence on record, erroneously passed the impugned award directing the petitioner-Corporation to reinstate respondent No.1 into service with continuity of service, full back wages and attendant benefits. He, thus, prayed that the impugned award be set aside and the writ petition be allowed.

On the other hand, learned counsel for respondent No.1 submits that the Labour Court, on re-appreciation of the entire evidence on record, rightly passed the award, and at the time of admission of the writ petition, the award of the Labour Court was not stayed and payment of back-wages only stayed, and subsequently respondent No.1 was also retired from service, hence, no reasons to interfere with the award passed by the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

Respondent No.1 was charge sheeted with two charges i.e., firstly for having failed to observe the rule ‘issue, close and start’ and secondly for reissue of six tickets of Rs.5/- denomination. The main contention of the petitioner-Corporation is that in Ex.M4 statement recorded by the checking officials respondent No.1admitted his guilt. I am unable to accept the said contention for the reason that respondent No.1 in his spot explanation under Ex.M4 categorically stated that he mistakenly opened the second S.R for Rs.5/- denomination with No.726 instead of No.732, and except that mistake he has not admitted any of the charges. Respondent No.1 has consistently taken that stand right from spot explanation to the end of enquiry proceedings that he has mistakenly opened the second S.R. for Rs.5/- denomination

with No.726 instead of No.732 and that he never reissued any used tickets. The Labour Court on considering the said circumstances and on re-appreciation of evidence also found that the petitioner-Corporation failed to establish any case against respondent No.1, particularly when there is no material seized to prove that respondent No.1 re-issued the used tickets and there was no statement of any passengers to that effect, and modified the punishment imposed by the enquiry officer.

The award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any of infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 28.02.2006

Nsr/Ksr